

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>RAYMOND E. ANDERSON,</b> v.</p> <p>Respondent:</p> <p><b>DENVER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 67529</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 22, 2016, Diane M. DeVries and James R. Meurer presiding. Petitioner, Mr. Raymond E. Anderson, appeared pro se. Respondent was represented by Mitch Behr, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**2826 W. 34<sup>th</sup> Avenue Denver, Colorado  
Denver County Parcel No. 02291-29-019-000**

The subject is a two-story, single-family masonry house located in the Potter Highlands Subdivision in the City and County of Denver. The house was constructed circa 1901, and includes 1,656 square feet of above-grade living area. There is an 828 square foot unfinished basement, and a ±two car detached garage. The roof is composition shingle, heating is via a gas fired unit, and all utilities are publically provided. According to testimony, the lot contains 4,160 square feet, and zoning is U-TU-B through Denver. The overall condition of the property is reported to be “very poor”.

According the testimony by both parties as well as the exhibits, there is an alley to the west side of the subject house that, given its construction and grade, creates a negative impact on both the functionality and value of the property. Petitioner claims that the cost to cure the issues resulting from the alley equates to approximately \$100,000 to \$110,000.

Petitioner is requesting an actual value of \$194,500 for the subject property for tax year 2015 which equates to Respondent’s appraised value of \$294,500 minus the \$100,000 cost to cure. Respondent provided an appraisal reflecting a value of \$294,500. Notwithstanding the

appraised value, Respondent is deferring to the Board of Equalization's (BOE) assigned value of \$292,900 for tax year 2015.

Petitioner did not present a market (sales comparison) analysis; however, did testify that changes to the construction of the alley that occurred approximately 30 years ago have created a significant negative impact on the subject property. Mr. Anderson indicated that the alley was illegal due to its insufficient width, and that the level and grade of the cement surface of the alley allowed rain and snow to drain into the house. Mr. Anderson further indicated that the alley was attached to the house's masonry foundation on the west side of the house, resulting in negative structural issues for the improvements. Petitioner indicated that Respondent's appraisal did not adequately address these issues. Based on a discussion with a contractor, Mr. Anderson testified that the cost to remedy the issues resulting from the alley should equate to \$100,000 to \$110,000, and that this cost to cure should be deducted from Respondent's opinion of market value.

Relative to the valuation provided by the county, Respondent's witness, Mr. Timothy K. Muniz of the Denver County Assessor's Office, developed a market approach and presented four comparable sales to support his opinion of value. All of the sales were of the same vintage and located in older neighborhoods of the City and County of Denver. Sale prices ranged from \$274,000 to \$425,000 prior to adjustment, and \$250,841 to \$330,364 subsequent to adjustment. All of the sales occurred in the statutory base period. The significant adjustments to the sales consisted of date of sale (time), location, site size, condition, living area square footage, functional utility, and garage. With emphasis on all of the comparables, Mr. Muniz concluded to a final value of \$294,500 for the subject for tax year 2015.

Mr. Muniz testified that his adjustments to the comparable sales used in the appraisal did account for the deficiencies resulting from the alley. More specifically the negative adjustments to the comparables for the site differences which ranged from \$0 to \$16,750, the negative adjustments for condition differences which ranged from \$27,400 to \$106,250, and the negative adjustments for functional utility differences which ranged from \$13,700 to \$21,250 supported the loss in value. Although the methodology in the appraisal report supporting these adjustments was somewhat suspect, it was adequately explained during Mr. Muniz's testimony.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

Colorado case law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that Respondent's comparable sales and adjustments to the sales, accurately reflect the market value for the subject property.

The sales used by Respondent were all located in similar locations, were representative of the market during the required statutory period, and the adjustments to these sales did reflect the deficiencies resulting from the construction of the alley. The Board is convinced that Respondent made sufficient adjustments to account for the subject's poor condition. The Board also concludes that given Petitioner's lack of a supportable market approach or a discussion of

specific sales, no impeachment of Respondent's conclusion of value could be reasonably accomplished. The Board also finds that Petitioner did not present sufficient evidence (e.g., cost estimates from a builder, etc.) to support Petitioner's proposed \$100,000 cost to cure adjustment.

**ORDER:**

The petition is denied.

**APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

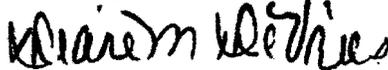
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

**DATED and MAILED** this 3rd day of March, 2016.

**BOARD OF ASSESSMENT APPEALS**

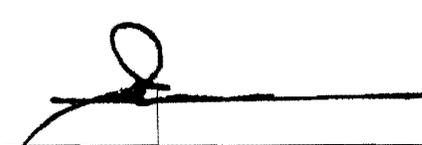


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Diane M. DeVries

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



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Milla Lishchuk



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James R. Meurer